

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: RAOULT, et al.

Serial No.: 10/519,455

Filed: December 29, 2004

For: SEROLOGICAL DIAGNOSIS METHOD COMPRISING A POSITIVE  
CONTROL TO DETECT INCLUSION OF THE HUMAN SERUM TO BE  
TESTED

Group: 1645

Examiner: Jana A. HINES

Conf. No.: 7537

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

October 11, 2007

Sir:

This is in response to the Restriction/Election Requirement mailed September 11, 2007, in connection with the above-identified application.

**Election of Species**

In the Restriction/Election Requirement, the Examiner required that the Applicants elect one of the species of infectious microbial agent within the method being chosen from microorganisms containing a (a) bacterium, (b) virus, (c) parasite or (d) fungus.

The Examiner contends that the requirement is due to the following reasons:

- a) Bacteria are unicellular prokaryotic microorganisms which generally possess rigid cell walls, multiply by cell division, and exhibit three principal forms:

round or coccal, rodlike or bacillary, and spiral or spirochetal. Therefore, if bacterium is selected, claims 8, 9, 10 and 11 with respect only to the bacteria will be examined.

- b) Viruses are minute infectious agents whose genomes are composed of DNA or RNA, but not both. They are characterized by lack of independent metabolism and the inability to replicate outside living host cells. Therefore, if virus is selected, then claims 8, 9 and 12 with respect to only to the viruses will be examined.
- c) Parasites are invertebrate organism that live on or in another organism (the host), and benefit at the expense of the other. Traditionally parasites are excluded from definition of pathogenic bacteria, viruses and fungi, though they may live parasitically. Therefore, if parasites are selected, then claim 8, with respect only to the parasites will be examined.
- d) Fungi are defined as eukaryotic, heterotropic organisms that live parasitically as saprobes, including mushrooms, yeasts, smuts, mold etc. Fungi reproduce either sexually or asexually and have life cycles that range from simple to complex. Therefore, if fungus is selected, then claim 8, with respect only to fungus will be examined.

The Examiner contends that currently claims 1-7 and 13-14 are the only generic claims in the application.

In response to the Restriction Requirement, Applicants respectfully elects the species bacteria with traverse.

Applicants respectfully submit that the present claims are directed to a single invention. The claims of the present invention are directed to the control of the

presence of a human serum in the tested sample can be applied to whatever the infectious microbial agent tested in the serum is. Specifically, all the claims of the present invention are directed to the detection of an antibodies specific to an infectious microbial agent. Support for the different microbial agents (e.g., viruses and bacteria) are provided throughout the specification, particularly in the examples.

In view of the above, Applicants respectfully request the Examiner to reconsider and withdraw this election requirement for the reasons set forth above.

### **CONCLUSION**

In light of the foregoing Remarks, Applicants respectfully submit that the application is now in condition for examination.

Should any minor matter remain, or should the Examiner feel that an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned to arrange such.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 935.44544X00), and please credit any excess fees to such deposit account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

/Jessica H. Bui/

Jessica H. Bui

Registration No. 40,846

JHB/kmh  
(703) 312-6600